

DATE: June 8, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-27259

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Jason Perry, Esq., Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 9, 2004, DOHA issued a statement of reasons advising Applicant of the basis for that decision--security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On December 8, 2005, after the hearing, Administrative Judge Claude R. Heiny denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Administrative Judge erred by concluding that the security concerns raised under Guideline F had not been mitigated. [\(1\)](#)

Applicant contends that the Administrative Judge erred in concluding that the security concerns raised by his history of financial difficulties had not been mitigated. In support of that contention, Applicant essentially reargues his case with respect to the limited evidence he presented below and presents new evidence in the form of credit reports, payment plans, receipts, and other financial documentation showing what efforts he has taken to resolve his outstanding debts. The Board does not find Applicant's contention persuasive.

The Administrative Judge obviously could not have considered the new documentary evidence that Applicant submitted for the first time on appeal in making his findings. The Board may not consider new evidence on appeal. *See* Directive ¶ E3.1.29. Therefore, we may not consider Applicant's new evidence and its submission does not demonstrate error on the part of the Judge. *See, e.g.*, ISCR Case No. 02-12789 at 3 (App. Bd. May 13, 2005).

The Applicant has not met his burden of demonstrating the Administrative Judge erred in concluding that the Guideline F allegations had not been mitigated. Although Applicant strongly disagrees with the Judge's conclusions, he has not established that those conclusions are arbitrary, capricious, or contrary to law. *See* Directive ¶ E3.1.32.3.

In this case, the Administrative Judge found that Applicant had a lengthy history of not meeting financial obligations. At the time the case was submitted for decision, Applicant still had significant outstanding debts. In light of the foregoing, the Judge could reasonably conclude that Applicant's financial problems were recent, not isolated, and still ongoing. Moreover, the Board has previously noted that it is reasonable to expect applicants to have documentation about efforts to satisfy specific debts. *See* ISCR Case No. 03-23511 at 2 (App. Bd. Feb. 15, 2006). The Board does not review a case *de novo*. The favorable record evidence cited by Applicant is not sufficient to demonstrate the Administrative Judge's decision is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 02-28041 at 4 (App. Bd. Jun. 29, 2005). Given the record that was before him, the Judge's ultimate unfavorable clearance decision under Guidelines F is sustainable. Thus, the Administrative Judge did not err in

denying Applicant a clearance.

Order

The decision of the Administrative Judge denying Applicant a clearance is AFFIRMED.

Signed: Christine M. Kopocis

Christine M. Kopocis

Administrative Judge

Member, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

1. The Administrative Judge found in Applicant's favor under Guideline E. That favorable finding is not at issue on appeal.